IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 11.07.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.454 of 2006

Vivekanandan ... Petitioner

Vs.

1.The State of Tamil Nadu, rep. by the
Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The Commissioner of Police,
Salem City. .. Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the entire records leading to the detention of the petitioner's friend by name Ginji @ Kathirvel under Act 14/82, vide detention order dated 25.02.2006 on the file of the second respondent herein made in the proceedings CMP.No.2/DO/S.C./2006, quash the same and consequently direct the respondents herein to produce the body and person of the said detenu before this Court and set him at liberty from the Central Prison, Salem.

For Petitioner : Mrs.R.Subadra Devi
For Respondents : Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by P.SATHASIVAM,J.)

The petitioner, who is the friend of the detenu by name Ginji @ Kathirvel, who is detained as a 'Drug Offender" as contemplated under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates

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Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 25.02.2006, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Additional Public Prosecutor has placed the details, which show that the representation of the detenu dated 12.04.2006 was received by the Government on 20.04.2006 and remarks were called for on 21.04.2006 and the remarks were received by the Government on 05.05.2006 and the File was dealt with by the Under Secretary and Deputy Secretary on 09.05.2006 and finally, the Minister for Prohibition and Excise passed orders on 23.05.2006. The rejection letter was prepared on the same day i.e. on 23.05.2006 and the same was sent to the detenu on 28.05.2006 and served to him on 29.05.2006. As rightly pointed out by the learned counsel for the petitioner, though the Deputy Secretary dealt with the file on 09.05.2006, the Minister for Prohibition and Excise passed an order only on 23.05.2006 and there is no explanation at all for taking time for passing the order till 23.05.2006. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the time taken for passing the order is on the higher side and we hold that the said delay has prejudiced the detenu in disposal of his representation. On this ground, we quash the impugned order of detention.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

raa

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To

1. The Secretary to Government, State of Tamil Nadu, Prohibition and Excise Department, Fort St. George, Chennai-600 009.

2.The Commissioner of Police, Salem City.

3. The Superintendent, Central Prison, Salem.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order) Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

JE (CO)
km/25.7.

HCP. No.454 of 2006

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